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September 12, 2007

Via Fax (914) 390-4179

Honorable Stephen C. Robinson  
 United States District Judge  
 United States District Court for the  
 Southern District of New York  
 300 Quarropas Street  
 White Plains, New York 10601

Re: *Warner Bros. Records Inc., et al. v. Cassin*  
 Case No. 06CV3089 (SCR)(GAY)  
Response to Supplemental Authority

Dear Judge Robinson:

We represent Plaintiffs in the above-referenced action. We write in response to the supplemental authority recently filed by Defendant.

On September 8, 2007, Defendant filed a copy of *Interscope v. Rodriguez*, 2007 WL 2408484 (S.D. Cal. August 17, 2007) as supplemental authority. As an initial matter, Defendant mischaracterizes the holding of that case by stating that the plaintiffs' complaint was dismissed. It was not. Rather, the issue before the court was whether to grant a default judgment.

As to the merits, Plaintiffs respectfully submit that *Interscope*, which stands alone against numerous other courts (including this one) that have decided the same issue, was wrongly decided. Specifically, as more fully discussed in Plaintiffs' prior briefing in this case, this Court, as well as numerous other courts around the country, have found that complaints filed by plaintiff record companies that are similar to that which was filed here were sufficient to state viable copyright claims under Fed. R. Civ. P. 8. Indeed, every other court to have addressed this issue has rejected arguments, including numerous such arguments by current Defendant's counsel, that these complaints were insufficient.

Defendant's attempt to support her argument by referencing a single outlier decision that deviates from the weight of these prior decisions and from the prior holdings of



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this Court should be rejected. Simply stated, even in light of the standard recently established by the Supreme Court in *Bell Atl. Corp. v. Twombly*, 127 S. Ct. 1955, 1965 (2007), Plaintiffs' Complaint cannot be considered to be conclusory or to lack plausibility. Plaintiffs have alleged the specific works at issue and that they own or control valid copyrights for each of these works. *Complt.* ¶ 12 & Exh. A. Plaintiffs have also specifically alleged that Defendant has violated their exclusive rights of reproduction and distribution with respect to the copyrighted recordings at issue by downloading and distributing such recordings through the use of an unauthorized peer to peer network. *Complt.* ¶ 14. Finally, Plaintiffs have not only made specific allegations of these facts, but also they attached substantial evidence, namely, Defendant's share folder, which supports their allegations. *Complt.* at Exh. B. Plaintiffs respectfully submit that such allegations clearly satisfy the standard set forth in *Bell Atl. Corp.*

Respectfully submitted,

Brian E. Moran

cc: Ray Beckerman, Esq. (via facsimile: 212-763-6810)

